

REMARKS

I. Introduction

With the cancellation of claims 18, 24 and 25 herein, claims 15 to 17, 19 to 23, and 26 to 31 are now pending in the present application. Claims 15, 20 and 26 have been amended. In view of the above amendments and the following remarks, it is respectfully submitted that claims 15 to 17, 19 to 23, and 26 to 31 are allowable, and reconsideration is respectfully requested.

II. Rejection of Claims 15, 16, 18-21, 23-26 and 28 to 31 under 35 U.S.C. § 103(a)

Claims 15, 16, 18 to 21, 23 to 26, and 28 to 31 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 4,894,654 (“Serenbetz”) in view of U.S. Reissued Patent No. 36,703 (“Heitschel”) and U. S. Patent No. 4,931,789 (“Pinnow”). Claims 15 and 26 were amended to include the limitations of canceled claim 18, and claim 20 was amended to include the limitations of canceled claims 24 and 25. Entry of the claim amendments is requested since the amendments raise no new issues (existing limitations from dependent claims are incorporated into independent claims) and put the claims in condition for allowance. Applicants respectfully submit that claims 15, 16, 19 to 21, 23, 26 and 28 to 31 as presented are allowable for at least the following reasons.

Amended claim 15 relates to a method for controlling a barricade of a parking space for a vehicle, in which the barricade is controlled from the vehicle by a code transmitted using a radio signal and checked with regard to an authorization of the code. Claim 15 recites that the code is changed by an input, and that a plurality of codes are recognized as authorized for one barricade. Claim 15 further recites “logging a dwell time of the vehicle in the parking space.”

It is respectfully submitted that none of the applied references teaches or suggests the claimed limitation of “logging a dwell time of the vehicle in the parking space.” Indeed, the Office Action does not address this limitation at all. Accordingly, for at least these reasons claim 15 is allowable over the applied references.

Claims 16, 19 and 29, which depend from claim 15 and therefore include all of its limitations, are also allowable for at least the same reasons that claim 15 is allowable.

Claims 20 and 26 recite limitations analogous to claim 15 and are therefore allowable for at least the same reasons that claim 15 is allowable. Claims 21, 23 and 30, which depend from claim 20 and therefore include all of its limitations, are allowable for at least the same reasons that claim 20 is allowable. Claims 28 and 31, which depend from 26 and therefore includes all of its limitations, are allowable for at least the same reasons that claim 26 is allowable.

In summary, it is respectfully submitted that claims 15, 16, 19 to 21, 23, 26 and 28 to 31 as presented are allowable over the applied reference. Accordingly, the rejection of these claims under 35 U.S.C. § 103(a) should be withdrawn.

III. Rejection of Claims 17, 22 and 27 under 35 U.S.C. § 103(a)

Claims 17, 22 and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Serenbetz in view of Heitschel, Pinnow, and knowledge the Examiner holds to be within the general skill of a worker in the art. Applicants respectfully submit that claims 17, 22 and 27 are allowable for at least the following reasons.

Claim 17, which depends from claim 15 and therefore includes all of its limitations, is allowable for at least the same reasons that claim 15 is allowable. Claim 22, which depends from claim 20 and therefore includes all of its limitations, is allowable for at least the same reasons that claim 20 is allowable. Claim 27, which depends from claim 26 and therefore includes all of its limitations, is allowable for at least the same reasons that claim 26 is allowable.

It is also respectfully submitted that the Office Action's assertion that it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ Bluetooth in the combined references "for providing the same function as desired and a better system" is improper hindsight reconstruction, since the alleged motivation or suggestion to combine the prior art references is simply not found in the prior art. For this additional

reason, claims 17, 22 and 27 are allowable over the applied references.

Still further, it is respectfully submitted that a *prima facie* case of obviousness has not been made in the present case, since the Office Action never made any findings, such as, for example, regarding what the ordinary skill level in the art would have been at the time the claimed subject matter of the present application was made. (See In re Rouffet, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998) (the “factual predicates underlying” a *prima facie* “obviousness determination include the scope and content of the prior art, the differences between the prior art and the claimed invention, and the level of ordinary skill in the art”)). It is respectfully submitted that the proper test for showing obviousness is what the “combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art,” and that the Patent Office must provide particular findings in this regard -- the evidence for which does not include “broad conclusory statements standing alone.” (See In re Kotzab, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000) (citing In re Dembiczak, 50 U.S.P.Q.2d 1614, 1618 (Fed. Cir. 1999) (obviousness rejections reversed where no findings were made “concerning the identification of the relevant art,” the “level of ordinary skill in the art” or “the nature of the problem to be solved”))). It is again respectfully submitted that there has been no such showing by the Examiner.

In fact, it is again respectfully submitted that the lack of any of the required factual findings in the Office Action forces Applicants to resort to unwarranted speculation to ascertain exactly what facts underlie the present rejections. The law requires that the Patent Office provide the factual basis for rejecting a patent application under 35 U.S.C. § 103. (See In re Piasecki, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984) (citing In re Warner, 379 F.2d 1011, 1016, 154 U.S.P.Q. 173, 177 (C.C.P.A. 1967))). In short, the Office has failed to carry the initial burden of presenting a proper *prima facie* case of obviousness. (See In re Oetiker, 977 F.2d 1443, 1445, 24, U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992)).

In summary, it is respectfully submitted that claims 17, 22 and 27 are allowable over the applied reference for at least these reasons. Accordingly, the rejection of these claims under 35 U.S.C. § 103(a) should be withdrawn.

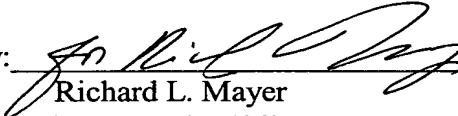
CONCLUSION

In view of all of the above, it is respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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